

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION FREE CONFERENCE COMMITTEE ON HOUSE AMENDMENTS TO SENATE BILL 196

Call to Order: By **CHAIRMAN RIC HOLDEN**, on April 6, 2001 at 3:40 P.M., in Room 350 Capitol.

ROLL CALL

Members Present:

Sen. Ric Holden, Chairman (R)
Rep. Donald L. Hedges, Vice Chairman (R)
Sen. Pete Ekegren (R)
Rep. Matt McCann (D)
Sen. Jon Tester (D)
Rep. Karl Waitschies (R)

Members Excused: None.

Members Absent: None.

Staff Present: Marion Mood, Secretary
Krista Lee Evans, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: none

Executive Action: SB 196

EXECUTIVE ACTION ON SB 196

CHAIRMAN RIC HOLDEN announced that the committee was to break down the amendments in question by issue, and discuss and vote on each issue separately, Amendment #SB019612.akl, **EXHIBIT (ccs78sb0196a01)**.

SEN. JON TESTER stated this free conference committee was scheduled because of item #5, dealing with placarding; **Kathleen Martin** had brought to his attention some questions in the code when the bill was amended in the Senate, and he asked **Krista Lee Evans, Legislative Staffer**, to explain the issue. **Ms. Evans** informed the members that under "placard" as defined in 50-31-103, it says that "it is a non-permanent sign used to display or describe food items for sale in a food service establishment or retail establishment". In the House, "food service establishment" was removed, leaving only "retail establishment"; retail establishment, in this context, was a commercial establishment at which meat or meat products were displayed for sale. Since this, in effect, limited SB 196 to meat and meat products only, the amendment changed the definition of "placard" for the purposes of this bill only.

CHAIRMAN HOLDEN invited **SEN. TESTER** to explain to the committee his intent in using a placard rather than labeling each product. **SEN. TESTER** stated that the intent was two-fold, one involving less cost because a shelf label could be used, and the second being the legality issue; "placard" has held up in the courts as being legal.

SEN. TESTER moved that item #5 of Amendment#HB019612.akl **BE ADOPTED**.

Discussion:

REP. KARL WAITSCHIES wondered whether having two definitions in code would present a problem. **Ms. Evans** stated that this was a common occurrence, and assured him the section in question defined one of four applications for the word "placard" as used in the bill.

CHAIRMAN HOLDEN called for a voice vote.

Motion/Vote: Motion carried 6-0.

SEN. TESTER moved that the second item, namely #6 of the amendment, **BE ADOPTED**; he wanted to insert "whole grains" after "vegetables", explaining that it would apply to whole grains rather than processed products. **CHAIRMAN HOLDEN** inquired how this would fit in with another amendment, and **SEN. TESTER** replied the upcoming amendment covered "any package containing a blend of foreign and domestic product", item #7 of the amendment. He elaborated that this would eliminate products such as beer, honey, cereals, or breads. **VICE CHAIRMAN DON HEDGES** submitted that the sesame seeds on a loaf of bread, or puffed wheat, were whole grains, maybe it should be worded "raw grains". **SEN.**

TESTER was agreeable to the change. **REP. WAITSCHIES** wanted language on page 2, lines 1 through 6, stricken. **CHAIRMAN HOLDEN** asked for examples as to where "raw grains" would be used in a grocery store, and **SEN. TESTER** replied in bagged wheat which people mill themselves. He also addressed **REP. WAITSCHIES'** concern, saying this labeling was not mandatory. **VICE CHAIRMAN HEDGES** questioned why this provision was in the bill if it was voluntary. **SEN. TESTER** explained that subsection (1) dealt with items produced in Montana, and subsection (2) with the country of origin.

Motion/Vote: **SEN. TESTER** withdrew his motion dealing with "whole grains", and **MOVED** that the term "raw grains" **BE ADOPTED**.

Discussion:

REP. MATT MCCANN referred to **REP. WAITSCHIES'** concern with trucks having to display a label with regards to the products' origin. **REP. WAITSCHIES** replied that while this is voluntary now, down the road it will be mandatory, and he did not like the idea that the producer or the shipper had to carry around a certificate. As long as it was "permissible", he would rather strike that provision. **SEN. TESTER** clarified that subsection (2) dealt with the actual retail sale. **REP. MCCANN** questioned if they were talking about the same thing, and **SEN. TESTER** reiterated he was talking about grain in a bin in a store, which would carry a label with its origin; it did not apply to a truck going down the road. To clarify things further, **CHAIRMAN HOLDEN** pointed out that if it was not known where the grain in the bin had come from, the label would say "origin unknown". **VICE CHAIRMAN HEDGES** wondered, since this bill did not limit this to a retail establishment but applied to commodities for sale, if he then would have to label the wheat he grew, saying it was grown in Montana. **CHAIRMAN HOLDEN** asked which part of the bill said that. **REP. HEDGES** replied it did so in the title. **Ms. Evans** clarified that the title of a bill is not codified, so it will not become part of the law; the codified parts of the bill are the actual sections, and it refers to retail sales in Section (2).

REP. WAITSCHIES asked that as per Subsection (2), would the only time the product had to be labeled be if it was not produced in the U.S. and offered for sale in Montana. **SEN. TESTER** disagreed, saying it has be labeled with the country of origin. The question was deferred to **Ms. Evans** who stated that it said anything that is produced in a country other than the U.S. and offered for retail sale must bear the placard. **REP. WAITSCHIES** withdrew his objection, and **CHAIRMAN HOLDEN** called for a roll call vote.

Motion/Vote: Motion failed with 3 Senators voting aye, and only 1 of 3 Representatives voting aye; dissenting were Reps. Hedges and Waitschies.

The next order of business was item #3 of the amendment which covered amendment #7. **SEN. TESTER** explained that this amendment merely reinserted language with regards to blending of foreign and domestic products, in effect meaning hamburger, because it was easy to blend meats of different countries' origin into hamburger. **REP. MCCANN** asked if the sponsor would consider specifying "any packaged hamburger". **SEN. TESTER** responded that would be fine, but since this could also be pork or lamb, maybe "ground meat products" should be substituted.

The consensus was that these products would have to be defined. **REP. WAITSCHIES** cautioned he would strongly object if this wording became part of the bill. He would agree if hamburger was specified, but not if it was left open as "ground meat products". **Ms. Evans** asserted that "hamburger" was already defined in code, all that needed to be done was to insert it into the bill. **CHAIRMAN HOLDEN** read from the statute, and said it was conceivable to amend the bill to use just beef hamburger and use the statute's definition; he indicated he would not support the bill otherwise.

Motion: SEN. TESTER offered to pull back "ground meat products" and insert after "honey, beef", "including hamburger, beef, pork, poultry or lamb", on page 2, line 7 of the bill, with "hamburger" as defined 50-31-103.

CHAIRMAN HOLDEN called for a roll call vote.

Motion/Vote: Motion failed, with 2 Senators (**EKEGREN, TESTER**) voting **aye**, and **SEN. HOLDEN** voting **no**; and **REP. WAITSCHIES** voting **aye**, and **REPS. HEDGES** and **MACCANN VOTING NO**.

Motion/Vote: SEN. TESTER moved that Item #8 on Amendment#SB019612.akl **BE ADOPTED**. Some of the penalties in this section had been eliminated, and he felt strongly about having them in the bill.

Discussion:

SEN. PETE EKEGREN voiced his objection, saying he felt uncomfortable penalizing a country grocery store. **VICE CHAIRMAN HEDGES** also opposed any penalties at this point; he wanted the administrative rules worked out first, and to give the retailers some input as well. **CHAIRMAN HOLDEN** wondered how a law could be made to work without civil or criminal penalties; violations

would not be acted upon without established guidelines. **VICE CHAIRMAN HEDGES** surmised that if the process was viable and the people of Montana liked the concept of placarding, the penalty for non-compliance was that the retailer would be unable to sell his product, because people would shop where the labels were displayed. **REP. MCCANN** felt that this bill could do good at some point in the future, but he did not like its negative connotation. **SEN. TESTER** closed on his motion by saying that he was aware that people resist change, but that SB 196 was designed to be a marketing tool which could be very beneficial, and without penalties, nothing would have to be done because there would be no enforcement.

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SEN. EKEGREN admitted that this was an important bill but he could not vote for any penalties. **SEN. TESTER** repeated what he said in his closing. **CHAIRMAN HOLDEN** called for a roll call vote.

Motion/Vote: Motion failed with **Sens. Holden** and **Tester** voting **aye**, and **Sen. Ekegren** voting **no**; and all three representatives voting **no**.

Motion: **SEN. TESTER** moved to restore the effective date to October 1, 2001, which would provide time for the department to work on the administrative rules and allow for public input as well; this is item #18 on the amendment.

Discussion:

VICE CHAIRMAN HEDGES proclaimed that the House Agriculture Committee chose an effective date of January 2003 for a specific reason. They felt that the development of the rules for this process would be very time consuming, especially in light of the manpower reduction in the Department of Commerce, because there were many considerations with regards to the new labeling and the determination which commodities would be affected. The consensus was that the legislature should be able to review this before it went into effect. **SEN. EKEGREN** asked for a summary of the changes made to the bill. **SEN. TESTER** recapped that the only amendment which passed was the definition of the placard.

REP. MCCANN wondered what would happen if the effective date was moved up, giving this process a dry run before the legislature reconvened in 2003, because it was still in its infancy; he favored a voluntary easing into the labeling process. **VICE CHAIRMAN HEDGES** agreed, saying he would like the department to invest some time and hold hearings which people could attend; he

would be reluctant, however, in requiring hundreds of retailers to invest in placards when this was not set in stone yet. **SEN. TESTER** argued that there was no investment since there were no penalties for non-compliance. **REP. WAITSCHIES** concurred with previous arguments, saying he wanted this to be done right before it was enforced, to determine if the rules needed to be changed, and finalize the process in the next legislative session. **SEN. TESTER** asserted that when the provisions in this bill go to rules, people would have an opportunity for input to make it work, and that there would be ample time until October of this year. **VICE CHAIRMAN HEDGES** stated that one of the mainstays in this bill was the raw meat issue, and that Montana's congressional delegation had introduced similar legislation. He wondered if we could not coattail on their legislation by having our rule-making process and the implementation date just after theirs.

CHAIRMAN HOLDEN ended the discussion by reminding the committee that the motion was on items 14, 17 and 18 of the agenda, and they would vote to remove the house amendment and replace it with an effective date of October 1, 2001.

Motion/Vote: Motion failed with **Sens. Holden, Ekegren, Tester** and **Rep. McCann** voting aye, and **Reps. Hedges and Waitschies** voting no, on a roll call vote.

Motion/Vote: **SEN. TESTER** moved that #19 of Amendment#SB019612.akl be adopted. He explained this meant that if the federal government adopted a similar program, this bill would become null and void.

Motion/Vote: Motion carried with Rep. Hedges voting no.

Motion/Vote: **REP. MCCANN** moved item #7 of the amendment **BE** reconsidered and **ADOPTED**.

Discussion:

REP. MCCANN stated the purpose was to insert "hamburger" on page 2, line 7, behind "beef", and asked if beef did not encompass "hamburger". **VICE CHAIRMAN HEDGES** confirmed this, much like lamb encompassed lamb burger and pork incorporated sausage. **REP. MCCANN** asked if that was his reason for voting no the first time. **VICE CHAIRMAN HEDGES** reiterated that all of this was covered under USDA regulations. **REP. MCCANN** questioned whether it was necessary to define hamburger in this bill when it was already defined in statute. **Ms. Evans** replied that if the word hamburger was used in the bill, it should be clearly stated which

definition was being used. She felt it was an interpretation issue whether hamburger should be included. **VICE CHAIRMAN HEDGES** wondered if ground lamb would be subject to interpretation as well. **Ms. Evans** asserted that this would be the same instance as ground beef versus beef, and up to interpretation; she suggested, however, that this could be determined in rule. For the purpose of this bill, though, it would be a policy decision for the committee whether to specify hamburger when talking about beef. **REP. MCANN** noted that he was comfortable with the term beef.

REP. WAITSCHIES was concerned with the fact that if it could not be determined where a product was from, it would have to be labeled "country of origin unknown"; that would mean a lot of hamburger in this country would have to be labeled as such. In his mind, that would defeat the purpose of this bill.

REP. MCCANN withdrew his motion.

Ms. Evans recapped that the salmon colored bill stood except for amendment #5, the definition of placard, and the contingent termination, amendment #19. She explained by turning down the sponsor's amendments, with the exception of the two mentioned above, the committee accepted the House amendments and a final motion needed to be made.

Motion/Vote: **VICE CHAIRMAN HEDGES** moved that the House amendments to SB 196 **BE ADOPTED**.

Vote: Motion carried 5 to 1, with **SEN. TESTER** casting the lone no.

Note: A revised amendment, #SB019612.akl, **EXHIBIT (ccs78sb0196a02)**, was submitted to the secretary on April 9, 2001.

ADJOURNMENT

Adjournment: 4:40 P.M.

SEN. RIC HOLDEN, Chairman

Marion Mood, Secretary

RH/MM

EXHIBIT (ccs78sb0196aad)